IN THE HIGH COURT OF JUDICATURE AT BOMBAY

ORDINARY ORIGINAL CIVIL JURISDICTION

NOTICE OF MOTION NO. 265 OF 2006

IN

SUIT NO. 3454 OF 2005

State Bank of India .. Plaintiff .

vs.

Smt. Suman Sharma

& Ors. .. Defendants.

Mr. Lalit Kumar Jain for plaintiff.

Mr. A. B. Vagyani for D. Nos. 1 & 2.

Mr. M.M. Telly i/by S. Mamomadbhai & Co.

for Union Bank of India.

CORAM : S.U.KAMDAR, J.

DATE : 20th February, 2006.

P.C.

. The motion is made returnable forthwith. By consent of the parties, the following order is passed :-

. The learned advocate appearing for defendant nos. 1 and 2 states that he has no objection that the suit flat be sold and the money deposited in this Court. The learned counsel appearing for the

Union Bank of India also states that they have no objection for the sale of the flat. However, they claim priority over the claim of the plaintiff bank. They also contend that there is no valid mortgage in favour of the plaintiff bank. Subject to the aforesaid contention being kept open the learned counsel states that the flat can be sold by the Court Receiver. The plaintiff also has no objection for the flat being sold by the Court Receiver. In the aforesaid circumstances the following order is passed.

. The Court Receiver, High Court Bombay is directed to take possession of the flat. The defendant will hand over possession of the said flat within 8 weeks from today. The Court Receiver is directed to take actual physical possession of the flat, if necessary with the help of the police if not handed over within 8 weeks as directed above. After Receiver takes possession of the flat he will sell the said flat by public auction. The defendants will be entitled to bring offers to the Court Receiver and if the bid submitted by them is found suitable and higher, the Receiver will accept the same. The sale proceeds will be deposited to the credit of this suit. The sale proceeds will be distributed to the plaintiff as well as the Union Bank of India in accordance with their inter se priorities as determined by the Court. Motion

disposed of accordingly. There shall be no order as to costs.

. Court Receiver to act on an authenticated copy of this order.